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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Bernard Trevor Matthews et al. : Art Unit: 1761
Serial No.: 09/557,418 : Examiner: Arthur L. Corbin
Filed: April 21, 2000
For: A NOVEL COOKED SAUSAGE AND
A METHOD FOR MAKING THE SAME

REQUEST FOR RECONSIDERATION

Assistant Commissioner for Patents
Washington, D.C. 20231
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S I R :

Please reconsider this patent application in view of the following remarks.

REMARKS

Applicants appreciate the Examiner granting a Notice of Allowance, which allowed claims 1-5, 7-24, 26, 28-32, and 34-47 (to be renumbered 1-43). Applicants agree that each of those claims is allowable.

As stated in the October 30, 2002 "Response to Final Office Action Dated July 31, 2002," Swartz teaches at column 4, lines 23-24, that a "final product pH within the range of 4.5 to 4.8 is desirable." In the Examiner's October 17, 2002 "Interview Summary," the Examiner states "Swartz has a pH of 4.1 - 4.8 *for the meat mixture....*"

However, it is believed that the reference in Swartz to "final product" is a reference to the cultured dairy product as opposed to the meat mixture. See, for example, the reference in Swartz to "final product" in connection with a cultured dairy product at column 3, line 66. In other words, Swartz teaches that a cultured dairy product pH within the range of 4.5 to 4.8 is desirable.

Therefore, upon review of the Swartz reference and the Interview Summary, Applicants suggest that the "final product" language in Swartz (column

4, line 23) likely refers to *cultured dairy* products as opposed to the meat mixture. In fact, Swartz is completely silent with respect to an overall pH of the final meat mixture.

The present invention is clearly patentable over Swartz. Because Swartz is silent with respect to the pH of the final meat mixture, Swartz neither discloses nor suggests a pH of 5.5 or more for the meat mixture as claimed by Applicants in every pending claim. Swartz is also silent with respect to an amount of mild yogurt of 10-40% weight as recited in each of Applicants' claims. Further, Swartz's cultured dairy product parameters of 2%-8% weight teach away from the desirable parameters now discovered and claimed by Applicants.

Accordingly, Swartz fails even to suggest the addition of substantial proportions of cultured dairy product to comminuted meat for making a cooked sausage, and fails to suggest controlling the pH and the amount of yogurt added such that the overall pH of the meat mixture remains at least about 5.5.

CONCLUSION

For the foregoing reasons, a Notice of Allowance is respectfully requested upon the Examiner's consideration of the foregoing remarks and the prior art submitted herewith.

Respectfully submitted,

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The Assistant Commissioner for Patents is hereby authorized to charge payment to Deposit Account No. 18-0350 of any fees associated with this communication.

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February 13, 2003

Patricia C. Boncella